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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/569,489

02/24/2006

Jean Labadie

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EXAMINER

ADAMS, GREGORY W

ART UNIT

PAPER NUMBER

3652

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/569,489	<b>Applicant(s)</b> LABADIE, JEAN	
	<b>Examiner</b> GREGORY W. ADAMS	<b>Art Unit</b> 3652	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. ____.                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>2/24/06</u> .   | 6) <input type="checkbox"/> Other: ____.                          |

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claims are narrative in form since several of the elements are set forth in terms of operation rather than being structurally defined and related. The claim(s) should include the essential elements of the invention and the elements should be correlated to define an operative device. For example, claim 1 recites "so that the top box of the first stack is transferable directly to the second stack" without means by which this function is accomplished. Thus, its not clear if its intended to be positively recited.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-2, 4-6, 15-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Antonello (US 4,601,386) in view of Raiteri (US 6,183,190).

Antonello discloses a handling device comprising:

- a first vertically movable support O;

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- a second vertically movable support O; and
- means (C3/L1-38) for synchronously driving first and second supports so that when one goes up an other goes down and vice versa;
- which handling device is characterized in that it further includes a first lateral upright ways V1, V2 and a second lateral upright ways V7, V8 separate from a first upright

Antonello discloses screws and does not explicitly disclose slideways. Raiteri discloses a first lateral upright and a second lateral upright separate from a first upright each provided with slideways 51, first and second supports 53 being mounted on slideways 51, a device being adapted to leave free a gap between a second upright and a top box of a first stack at a predetermined height so that a top box of a first stack (li) is transferable directly to a second stack by lateral displacement at a more or less permanent level. Raiteri teaches the reduction in storage space over previous unstacker/restackers. C1. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the apparatus of Antonello to include Raiteri's slideways to reduce the space requirements of unstacker/restrackers.

Claims 3 & 7-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Antonello in view of Raiteri and further in view of Heston (US 5,971,700). Antonello does not disclose a cable, bottom idler pulleys, top idler pulleys & mobile shaft. Heston discloses a cable (C4/L40) each end connected to a respective support and which travels along a guide path including two bottom idler pulleys 63g, 63h each disposed at a base of a lateral upright and two top idler pulleys 63b, 63f each disposed at a top of a

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respective upright, a portion of a guide path situated between a bottom idler pulleys being substantially horizontal and disposed under said supports so that an assembly formed by two supports is partially surrounded by a guide path.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Antonello in view of Raiteri and Heston and further in view of Sanders (US 4,021,019). Sanders discloses a pulley 70 connected to a threaded member meshing with an adjuster screw 121 rotatably mounted on a lateral upright 10a, an adjuster screw being connected to a drive means 125 accessible from a lateral upright to compensate for shocks to a cable lifting system such as the rise and fall of a ship creating cable slack and then full loading at tension. C1. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the apparatus of Antonello to include a threaded member, adjuster screw and drive means, as per the teachings of Sanders, to prevent equipment damage should a cable under loading be relaxed and then re-tensioned.

Claims 10-13 & 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Antonello in view of Raiteri and further in view of Nishitani et al. (US 5,957,653). Antonello discloses control module for synchronized drive means. Nishitani et al. disclose sensing members 16, 16, 16 for sensing first stack height A and second stack height B, sensing members connected to a control module 26, which is adapted to control a synchronized drive means as a function of indications supplied by a sensing member 16, 16, 16. Nishitani et al. teach "To enable the carriage 20 to pick up articles, the boundary between the top layer and the subsequent layer must be at almost the

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same height as the carriage.” C3/L40. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the apparatus of Antonello to include first and second sensing members for sensing first and second stack heights and connected to a control module, as per the teachings of Nishitani et al., to place Antonello’s stack heights at approximately the same level.

Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Antonello in view of Raiteri and further in view of Hoffend, JR (US 6,634,622). Hoffend, JR discloses a safety stop 280 where “further configuration of the present invention provides a safety stop for terminating movement of batten upon detection of an obstacle in an intended travel path of the batten.” Para. [0021]. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the apparatus of Antonello to include a safety stop, as per the teachings of Hoffend, JR, to prevent injury when lifting large articles where there is potential for injury.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to GREGORY W. ADAMS whose telephone number is (571)272-8101. The examiner can normally be reached on M-Th, 8:30am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner’s supervisor, Saul Rodriguez can be reached on (571) 272-7097. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Gregory W Adams/  
Primary Examiner, Art Unit 3652